

Legal Newsletter

Office of the Staff Judge Advocate Fort Dix, New Jersey

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PREAMBLE

The end of the year is a time for holiday celebrations and cheer. It is also a time to think of financial and tax planning before a new tax year begins. This newsletter contains advice to help you in both areas. It contains some tips on the ethical rules applicable to holiday parties and similar events. It also contains some advice on financial and tax issues to help ensure that your holiday cheer lasts well into the next year.

I wish each of you a happy holiday season! If you have comments on this newsletter, please contact me at peter.masterton@dix.army.mil.

LTC Pete Masterton
Fort Dix Staff Judge
Advocate



Holiday Activities and "Good Judgment!"

The time of year for holiday celebrations is approaching. I encourage each of you to enjoy the season with your friends, family and co-workers. In order to keep these events enjoyable, there are some workplace ground rules that should be observed.

Before addressing specific issues, I must point out that we need to be sensitive to the fact that not all of us celebrate the same holidays. What we call the celebration, how we refer to the season, and our greetings to one another should reflect this. At times, generic holiday references may be the most appropriate greeting.

Use of Government time

Some holiday celebrations may occur on Government time, but only up to a point. Time taken for an actual event -- perhaps a "pot luck" in the office, or a luncheon at a restaurant--is not typically an issue. However, preparation for these events can create issues. The

key here is "**Good Judgment!**"

Supervisors may permit some use of duty time for preparations. However, preparing holiday events should not become a significant part of any employee's duties. Examples:

- A committee of employees should not spend two duty days visiting potential restaurants to explore facilities and menus, followed by another two days worth of time to inform the group, obtain votes, and develop consensus, followed by another trip to make final arrangements. On the other hand a few telephone calls during the day requesting faxes from restaurants, a couple of short planning discussions in the office, and visiting one or two restaurants during lunch would be permissible. **Good Judgment!**

- A decorations committee should not spend a duty day visiting party shops, followed by another workday organizing decorations. (Also, appropriated funds may not be used to purchase decorations.) However, a brief planning session on Government time, followed by a few telephone calls to party shops, with visits and purchases made after duty hours, and with decorations made during lunch periods or after the duty day, would be permissible. **Good Judgment!**

Fundraising

Your office may decide they want to raise money to reduce the cost of a holiday event. The general rule is "no fundraising in the Federal workplace." However, there is an exception for office events:

- The DoD Joint Ethics Regulation, permits employees to raise money among their members for their own benefit when approved by the head of the organization and the Ethics Counselor. For example, employees could have a bake sale to reduce the cost of tickets for the office holiday celebration. Use the following checklist for such events:

√ Keep it low key.

√ Use minimal Government time. No duty time should be used to bake or purchase cookies. Some minimal time during the day may be used to plan the sale. Employees conducting the sale should do so on their personal time.

√ Government equipment, such as computers and printers, may be used at no cost to the Government. Items, such as placards and announcements, may not be ordered from the audio-visual office. Use of Government resources requires **Good Judgment!**



√ Do not solicit outside sources (such as employees of support contractors) to contribute baked goods.

✓ Contractor employees and visitors who become aware of the bake sale may purchase items. The important thing is that we do not personally solicit them, or engage in solicitation that targets them.

- Outside sources (local restaurants, car dealerships, department stores, professional associations, and contractors) may not be solicited for donations, to include door prizes.
- Raffles (e.g. 50-50s, lotteries, etc.) may not be used to raise money for office functions.

Contractor Employees

Contractor employees may attend our celebrations. However:

- There should be no official encouragement for someone else's employees to leave their workplace. We can let it be known that they may attend and will be a welcome part of the event.
- Contractor employee time off, and the nature of the time off (leave, personal day, administrative absence) are between the contractor and its employees. When a contractor's employee is absent, the contractor cannot bill for services not delivered, and may have concerns about issues such as contract schedules, delivery dates, and other matters. Accordingly, the contractor must decide if, and under what conditions, its employees may be absent.
- Contractor employees may not be tasked, or asked to volunteer, to organize holiday events.

Gifts

Gifts among employees may be exchanged during the holiday season. However, be mindful of appearances. It requires **Good Judgment!** to avoid creating the perception of partiality or favoritism. Gift-giving in the workplace should be even-handed and democratic in spirit. No one should be left out. Some specific rules apply:

- The value of a holiday gift to a superior is limited to \$10. And, we may not solicit contributions from other employees. There are no restrictions on gifts to peers and subordinates.



- We may not accept a gift from anyone who makes less money than we do as a Federal employee, unless there is no superior-subordinate relationship, and there is a personal relationship that would justify the gift. Again, the exception would be for a gift where the value does not exceed \$10, with no soliciting of contributions from other employees.
- We may have a gift exchange among employees. If it is an anonymous exchange, a reasonable value should be established for the individual gifts. (If it is not anonymous, \$10 is the limit.) If contractor employees are participating

in an anonymous gift exchange, the gift limit should be \$20, as discussed in the point below.

- Federal employees may not accept gifts from contractors or contractor employees. However, gifts (other than cash) not exceeding \$20 may be accepted as long as the employee has not accepted other gifts from the contractor that exceed \$50 for the year.

Attendance at Parties.

All employees and contractor employees are free to attend a private party hosted by a Federal employee. Food, refreshments and entertainment may be shared and enjoyed. Subordinates may bring hospitality gifts, such as a bottle of wine, but they must not be lavish. Hospitality gifts are not strictly limited to \$10 in value, but this should guide your use of **Good Judgment!** However, hospitality gifts from contractor employees are strictly limited to \$20 in value. Ideally, hospitality gifts will be edible.



- Federal employees may accept free attendance at a private party hosted by a contractor or a contractor employee if

any of the following conditions apply. If none apply, then the invitation must be declined or the employee must pay for attendance.

- √ The average cost per guest does not exceed \$20.
- √ The invitation is based on a bona fide personal relationship with the contractor employee--not just a congenial office relationship.
- √ The party qualifies as a "widely-attended gathering"--that is, there will be more than 20 attendees representing a diversity of views and backgrounds, and the employee's supervisor determines that it is in the agency's interest for the employee to attend.
- √ The contractor is having an open-house, open to the public or to all Government employees or military personnel in the area.
- √ The invitation is offered to a group or class that is not related to Government employment, such as all GEICO, PFCU or USAA customers.
- √ You have been assigned to represent the Army at an official function (such as an embassy event).

Holiday Greetings

- Appropriated funds may not be used to purchase holiday greeting cards. Subordinates may not be given the task of preparing or addressing personal greetings. Finally, official resources--including paper, printers, envelopes and postage--may not be used for holiday greeting cards.

- Electronic greeting cards with digital photographs, video, sound, or other large file attachments may not be transmitted on official Army systems. Further, sending such messages with executable attachments, including files that end in "exe" or "jgb," (such as Santa Bowling for Dwarves) or opening such attachments is not appropriate. This prohibition does not apply to transmitting or sharing "hot links" to holiday greeting sites.



Alcohol

Consistent with Army Regulation 600-85, *Alcohol and Drug Abuse Prevention and Control Program*, official and unofficial functions will not encourage or glamorize consumption of alcohol, and alcoholic beverages may not be given as prizes.

Conclusion

Employees may plan and participate in holiday events. And, while some limited use of Government resources and time is permitted, we must use common sense and **Good Judgment!** **I hope you have a happy and safe holiday season.** If you have any questions, contact your local Ethics Counselor (John Hollis at 562-3741).

300% INTEREST!!

Would you borrow money at 300% interest? If you obtain a "payday loan" through a check cashing company, this may be exactly what you are doing.

Let's examine the concept of payday loans using the fictitious example of SPC Snuffy who is a bit short of cash, and he needs \$100 to get him through to next payday. He can't get a bank loan for such a small amount, and his buddies in the barracks won't spot him the money, so he goes to a check cashing company. For a fee, the check cashing company agrees to loan him the \$100, in return for his post-dated personal check for both the loan amount and the fee. A commonly advertised check cashing fee \$12.50 per \$100; for that for \$100 cash in hand today, SPC Snuffy ends up paying \$112.50 at his next payday.

A \$12.50 fee may seem small, but if the loan is renewed repeatedly, those \$12.50 fees add up to a much higher amount. If a \$100 loan were repeatedly renewed for a year, the 26 two-week fee loan fees of \$12.50 each would amount to \$325. That equals an annual percentage rate of 325 percent!

While many states have usury laws that limit the amount of interest a lender can charge, many of those states exempt check cashing companies from such laws. In other states, the check cashing companies call the check cashing charge a "fee" instead of "interest," and thereby avoid interest rate limitations.

Many soldiers fall into a cycle of being short of cash, then taking out a payday loan, and when the amount borrowed

and the fee are taken from the soldier's bank account on payday, the soldier finds himself again short of cash. So, he takes out another payday loan, and so on and so on.

Conclusion

Financial planning is key to avoid this vicious cycle. As will be discussed in the companion article, many soldiers can increase their take-home pay by more than a hundred dollars a month simply by adjusting their income tax withholding form (IRS Form W-4).



Tax Planning

If you received a large income tax refund after you filed your income tax return, or you owed the IRS a substantial amount at that time, consider submitting a new Form W-4, *Employee's Withholding Allowance Certificate*, to Finance. Finance withholds income tax from your paycheck based on the number of withholding allowances you claim on Form W-4. It is up to you to prepare a new W-4 as your tax circumstances change. For example, if you have children or take out a mortgage but fail to adjust your withholding downward to reflect the tax benefits these events generate, you may be overpaying your tax during the year. Similarly, if you are entitled to the

dependent care credit, child tax credit, and/or the higher education credit, you should submit a new Form W-4 to have your withholding reduced accordingly. On the other hand, if you have finally paid off the mortgage on the house, or the kids have now gone off on their own, you may have to increase your withholding.

If you have too much withheld during the year, of course, you will receive a refund after you file your return. While everyone enjoys getting a refund, in fact, it means you made an interest-free loan to the government. You could have used the money during the year to generate income or for personal purposes. You should adjust the amount your employer withholds downward to increase your regular take home pay.

The IRS web site has a [W-4 calculator](http://www.irs.gov/individuals/display/0,,i1%3D1%26genericId%3D14807,00.html) to assist you decide whether you should file a new W-4:

<http://www.irs.gov/individuals/display/0,,i1%3D1%26genericId%3D14807,00.html>

At the other extreme are taxpayers who have too little withheld and who owe substantial amounts come April 15th. While they enjoy the "extra" amounts received in each paycheck, the costs incurred for this enjoyment can far outweigh its benefits. Not only will you be paying back the amounts owed in taxes in April, but also you will likely be tacking on extra in the form of penalties. If this describes your situation, you should adjust your employer's withholding upwards. (As a rough guideline, you should be owing less than 10% of your tax bill in April.)

Unfortunately, the procedures for

arriving at the proper withholding amounts are among the more complex ones taxpayers confront. A wide array of factors play a role: exemptions, deductions, credits, marital status, your spouse's income, and others. The Form W-4 includes three worksheets that you may have to complete to determine the proper withholding. The Internal Revenue Service web site offers an online [W-4 calculator](#) to help you assess whether your situation calls for a withholding adjustment (up or down). You may also check with your tax advisor, or Legal Assistance if you require guidance in getting through the maze.

Remember that the Fort Dix Legal Assistance Office can prepare federal and state income tax returns as a free service to eligible soldiers, dependents and retirees. If you are interested in this service, call 562-3043 to schedule an appointment .

Useful Internet Tax Resources:

Several free tax resources are now available on the Internet. Quicken has an interactive calculator that helps you see how the new tax law could affect your federal income taxes. The calculator is located at <http://www.quicken.com/taxes/taxrelief/estimator/taxcuts/nytimes>. Other tax resources include TaxPlanet.com's [Tax Guide](#) and the New York Times' [Your Taxes](#).